

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2016-180-C – ORDER NO. 2016-\_\_\_\_\_  
JULY \_\_, 2016**

**IN RE:**

<b>Application of South Carolina Telecommunications</b>	<b>)</b>	<b>ORDER GRANTING</b>
<b>Group Holdings, LLC d/b/a Spirit Communications To</b>	<b>)</b>	<b>AMENDMENT OF</b>
<b>Amend its Certificate of Public Convenience and</b>	<b>)</b>	<b>CERTIFICATE</b>
<b>Necessity To Provide Facilities-Based and Resold</b>	<b>)</b>	
<b>Local Exchange Services, and for Flexible Regulation</b>	<b>)</b>	
<b>of its Local Exchange Services</b>	<b>)</b>	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of South Carolina Telecommunications Group Holdings, LLC d/b/a Spirit Communications (“Spirit”, “Applicant” or “Company”) to amend its Certificate of Public Convenience and Necessity (“CPCN”) granted in Commission Order No. 2014-806, “Order Granting Certificate,” for authority to provide facilities-based and resold local exchange telecommunications services throughout the State of South Carolina (the “Application”). The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 and the Rules and Regulations of the Commission. The Company also asked for its local exchange telecommunications services in the State to be regulated in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 1997-467-C. The Company additionally requested certain waivers of the Commission’s Regulations.

By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing on June 1, 2016.

On May 16, 2016, the South Carolina Telephone Coalition (“SCTC”) filed a Petition to Intervene in the proceeding. The Commission granted SCTC’s Petition to Intervene pursuant to Commission Directive, Order No. 2016-418, dated June 1, 2016. No comments were filed in this proceeding.

On June 7, 2016, the SCTC filed a Stipulation agreed to and signed by the SCTC and Spirit on June 6, 2016, in which the SCTC stated that as a consequence of the stipulations and conditions in the Stipulation that the SCTC does not oppose Spirit’s Application (the “Stipulation”).

On June 24, 2016, counsel for the South Carolina Office of Regulatory Staff (the “ORS”) filed a letter with the Commission setting out that it had reviewed the Application and did not oppose the Commission granting the Application. The ORS also requested permission to be excused from the hearing in the docket. Neither the Applicant nor the SCTC objected to the ORS request. The Hearing Examiner granted the ORS request to be excused from the hearing by Directive, Order No. 2016-59-H, dated June 28, 2016. The ORS correspondence of June 24, 2016 is attached as Order Exhibit 1.

On June 27, 2016, the Applicant filed a Motion for Expedited Review, requesting, among other things, that the Commission decide the matter at the Commission’s earliest opportunity, in

a regularly-scheduled agenda session, and that the Commission cancel the formal hearing on the matter, which hearing was scheduled for August 1, 2016. By Commission Directive dated July 13, 2016, the Commission granted the Applicant's Motion for Expedited Review.

According to the record, Spirit is a private company that was organized in the state of South Carolina on December 29, 2000. Applicant is the sole owner of South Carolina Net, Inc. ("SC Net"), a South Carolina corporation that currently holds a CPCN from the State of South Carolina. SC Net has been providing long distance services in the State since 1992 and local exchange services in the State since 2000. In 2014, Applicant began restructuring its business so that some of the local and long distance services it offers would be provisioned directly through the Applicant. SC Net has continued offering these services as well.

In Order No. 2014-806, the Commission granted Spirit authority to provide resold and facilities-based local exchange service within the operating areas of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina, Frontier Communications of the Carolinas, Inc., United Telephone Company of the Carolinas, Inc. d/b/a CenturyLink, and Windstream South Carolina, LLC, as well as authority to provide interexchange services throughout the State of South Carolina. The Commission also granted Spirit's requests that its local exchange telecommunications services be regulated in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C, and that Spirit's intrastate interexchange business services be regulated in accordance with the principles established for alternative regulation in Orders No. 95-1734 and 96-55 in Docket No. 95-661-C.

Applicant proposes to offer customers facilities-based local exchange telecommunications services using both existing and new fiber facilities of its affiliate

PalmettoNet, Inc. and special access facilities purchased from other providers of telecommunications services, as well as resold local exchange telecommunications services. Applicant intends to provide local exchange services, custom calling, and Voice over Internet Protocol (“VoIP”) features comparable to custom local area signaling services features, and bundled services such as local and interexchange services in a combined package. In addition, Applicant will provide its customers with additional custom calling and class features, access to emergency call services (e.g. 911), directory assistance, and other ancillary services. Applicant also proposes to offer resold inbound and outbound interexchange telecommunications services and operator-assisted services to its presubscribed customers under its existing statewide authority to provide interexchange telecommunications services. Applicant intends to offer its local and interexchange services using VoIP switching platforms. All services are available twenty-four (24) hours a day, seven (7) days a week.

Mr. Baldwin provided testimony regarding Spirit’s technical, managerial, and financial resources to provide the services for which it requests authority. Mr. Baldwin further testified that granting Spirit’s Application will serve the public interest by providing South Carolinians increased choice, high service quality, and seamless local and long distance service. Applicant is a South Carolina-based company, with employees who live and work in South Carolina, contributing to the local economy.

In his Direct Testimony with Verification filed with the Commission on June 20, 2016, Mr. Baldwin testified that local services will meet the service standards required by the Commission, and that the provision of local service by Applicant will not adversely impact the availability of affordable local exchange service or otherwise adversely impact the public interest. Mr. Baldwin further testified that the Company will abide by all applicable Commission

rules, regulations, and orders upon the Company receiving certification to provide facilities-based and resold local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep its financial records in conformance with the Uniform System of Accounts (“USOA”), since it will maintain its books and records in accordance with Generally Accepted Accounting Principles (“GAAP”). Additionally, the Company seeks a waiver of 10 S.C Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. Applicant will make arrangements with those incumbent local exchange carriers that are required to publish directories in areas where Applicant provides service, whereby the names of Applicant’s customers will be included in any such directories. The Company also requested that it be granted a waiver of the map filing requirement of 10 S.C. Code Ann. Regs. 103-612.2.3. The Commission previously granted Spirit’s request for waiver of these requirements in Order No. 2014-806. Applicant has requested statewide certification, and its service area is, therefore, the State of South Carolina.

After full consideration of the applicable law, the Company’s Application, and the evidence of record presented in the docket for this matter, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. The Company is a duly organized limited liability company which exists under the laws of the State of South Carolina.

2. The Company will offer facilities-based and resold local exchange telecommunications services to customers in the State of South Carolina. The Company will also continue to offer interexchange telecommunications services under Spirit’s existing

statewide authorization for the interexchange services. A more complete description of the local services Applicant proposes to offer in South Carolina can be found in Applicant's local exchange services tariff, which has been approved by and is on file with the Commission.

3. The Company has made arrangements for its customers to call Spirit at its toll-free customer service number, 800-686-7671, or at 803-726-7989. In addition, customers may contact Spirit in writing by sending an email to: [Customercare@spiritcom.com](mailto:Customercare@spiritcom.com). The toll-free numbers are printed on the customers' monthly billing statements and all customer service contact information is posted on Spirit's website at: <http://www.spiritcom.com/contact-us?t=customer-service>.

4. The Company has the financial resources to provide the services as described in its Application. S.C. Code Ann. §58-9-280(B)(1). The Commission recognized in Order No. 2014-806 with regard to Spirit's initial request for CPCN authority that Spirit has sufficient financial resources to operate in South Carolina.

5. The Company has the managerial and technical resources to provide the services as described in the Application. S.C. Code Ann. §58-9-280(B)(1). In Order No. 2014-806, the Commission concluded that Spirit has the managerial and technical resources to provide local exchange telecommunications services and interexchange telecommunications services. Spirit's affiliated companies provide traditional local exchange and/or interexchange services throughout South Carolina and in parts of North Carolina and Georgia. Applicant continues to rely on the same key management and technical personnel who have significant business and telecommunications experience.

6. The Commission finds that the Company's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. §58-9-280(B)(3).

7. The Commission finds that, to the extent it may be required to do so, the Company will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4).

8. The Commission finds that the services to be provided by the Company will meet the service standards required by the Commission. S.C. Code Ann. §58-9-280(B)(2).

9. The Commission finds that the provision of local exchange service by the Company will not adversely impact the public interest. S.C. Code Ann. §58-9-280(B)(5).

10. The Commission finds that that the Applicant's entry into the local market will not disadvantage any telephone service providers.

11. The Commission finds that consumers in the areas that Applicant proposes to serve will benefit from a wider choice of services and options at competitive prices.

12. The ORS stated that it did not oppose granting the Application herein.

13. The ORS was permitted to be excused from the hearing.

14. Pursuant to the Stipulation, the SCTC stated that it did not oppose Spirit's Application. Spirit's counsel consulted with counsel for the SCTC, and the SCTC did not object to proceeding without a formal hearing in this matter.

15. Pursuant to the Commission's Directive dated July 13, 2016, the Commission granted the request of the Applicant for Expedited Review of its application to amend its Certificate. Based on the Application, the Stipulation, the letter of "no objection" filed by the ORS, and the verified testimony of Michael D. Baldwin, the Commission approved the Company's Application.

## **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the facilities-based and resold local exchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's provision of service will not adversely impact the availability of affordable local exchange service.

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates, to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will comply with required surcharges for 911 and dual party relay service, and remit those funds to the appropriate authorities.

5. The Commission concludes that the Company will provide local services that meet the service standards of the Commission.

6. The Commission concludes that, to the extent the Company provides service using Interconnected VoIP technology, this does not in any way change or diminish the Commission's authority to regulate the Company in accordance with state law.

7. The Commission concludes that the provision of local service by the Company will not adversely impact the public interest.

8. The Commission concludes that the provision of local exchange telecommunications services by the Company throughout the State of South Carolina will promote the public interest by providing customers with expanded choice of services and service providers.



9. Based on the findings of fact and conclusions of law stated herein, the Commission determines that an amended Certificate of Public Convenience and Necessity should be granted to the Company to provide facilities-based and resold local exchange telecommunications services throughout the State of South Carolina.

10. The Commission concludes that the Company's local exchange telecommunications services, regardless of the technology employed, shall be regulated in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 1997-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

11. The Commission grants exemption from the policies requiring the use of USOA. The Commission also grants waivers of 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory, and 10 S.C. Code Ann. Regs. 103-631, which requires publication of directories.

12. If, and at such time as, Spirit offers retail residential local exchange service, the Company shall comply with 10 S.C. Code Ann. Regs. 103-607 (2013) and Commission orders pertaining to bond requirements.

13. Spirit shall comply with the verification regulations governing change of preferred carriers as established by the Federal Communications Commission (the “FCC”).

14. Spirit shall comply with S.C Code Ann. §58-9-300 (2013 Supp.) titled “Abandonment of Service.” Additionally, to the extent applicable, Spirit agrees to adhere to the FCC’s Rules 47 C.F.R. §64.1190 and §64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. An amended Certificate of Public Convenience and Necessity is granted to Spirit to provide facilities-based and resold local exchange telecommunications services throughout the State of South Carolina.

2. Future revisions of the Company’s local tariff should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order. The revised tariffs shall be consistent with the Commission’s Rules and Regulations.

3. Spirit is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 System” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the additional counties and cities where the Company will be

operating. Contact with the appropriate authorities is to be made before providing voice or dial-tone telephone service in South Carolina. Located on the homepage of the Commission's website at [www.psc.sc.gov](http://www.psc.sc.gov) is a "Quick Link" column. Clicking on this tab will provide a list of county and city E-911 coordinators with contact information. By this Order, and prior to providing voice or dial-tone services within any new areas of South Carolina, the Applicant is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

4. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual reports and the gross receipts reports will necessitate the filing of South Carolina-specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filing requirements. The proper form for filing financial information can be found at the Commission's website or at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1<sup>st</sup> of each year.

5. Commission gross receipts forms are due to be filed no later than August 31<sup>st</sup> of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov) and the appropriate form is titled "Gross Receipts Form."

6. Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This

worksheet provides the ORS with information required to determine each telecommunications company's liability to the State USF fund. The State USF worksheet is due to be filed with the ORS annually no later than July 1<sup>st</sup> of each year.

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering, operations, tests and repairs. In addition, the Company shall provide to the Commission and the ORS in writing any update to the name of the existing authorized representative to be contacted in connection with general management duties, as well as emergencies that occur during non-office hours. The Company shall file any updates to the existing names, addresses, and telephone numbers of these representatives, if any, with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.psc.gov](http://www.regulatorystaff.psc.gov). This form shall be utilized for the provision of this information to the Commission and the ORS. Further, the Company shall promptly notify the Commission and the ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

8. The Company shall conduct its business in compliance with Commission decisions and orders, both past and future.

9. The Company is granted a waiver of the requirement for books and records to be maintained in accordance with USOA. The Commission grants the Applicant's request for a waiver of the requirement of 10 S.C. Code Ann. Regs. 103-612.2.3 to file a map of its service territory, and a waiver of 10 S.C. Code Ann. Regs. 103-631 to publish directories. The Company

is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

10. The Commission also determines that the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation in Order No. 1998-165 in Docket No. 1997-467-C.

11. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

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Swain E. Whitfield, Chairman

ATTEST:

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Comer H. Randall, Vice Chairman

(SEAL)

STATE OF SOUTH CAROLINA                    )  
  )  
COUNTY OF RICHLAND                    )     CERTIFICATE OF SERVICE

The undersigned, Carrie L. DeVier, hereby certifies that she is employed by the law firm of Herman & Whiteaker, LLC, as attorneys for South Carolina Telecommunications Group Holdings, LLC d/b/a Spirit Communications, and that she has caused the Proposed Order in Docket No. 2016-180-C to be served by United States Postal Service, first class postage prepaid and affixed thereto, and addressed to the following on July 22, 2016:

Shannon Bowyer Hudson  
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